

SENATE, No. 3384

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 28, 2021

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Senators Corrado, O'Scanlon, Pou and Schepisi

SYNOPSIS

Renames Office of Ombudsman for Individuals with Intellectual or Developmental Disabilities, creates position of deputy ombudsman, and expands duties of office to apply to all persons with disabilities and their families.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2021)

1 AN ACT concerning the purpose and name of the Office of the
2 Ombudsman for Individuals with Intellectual or Developmental
3 Disabilities and Their Families and supplementing and amending
4 P.L.2017, c.269.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 1 of P.L.2017, c.269 (C.30:1AA-9.1) is amended to
10 read as follows:

11 1. a. (1) There is established in but not of the Department of
12 the Treasury the Office of the Ombudsman for Individuals with
13 Intellectual or Developmental Disabilities and their Families. For
14 the purpose of complying with the provisions of Article V, Section
15 IV, paragraph 1 of the New Jersey Constitution, the Office of the
16 Ombudsman for Individuals with Intellectual or Developmental
17 Disabilities and their Families is hereby allocated within the
18 Department of the Treasury, but notwithstanding this allocation, the
19 office shall be independent of any supervision or control by the
20 department or any board or officer thereof, or any other cabinet-
21 level department, board, or officer thereof. The purpose of the
22 ombudsman is to serve as a resource to provide information and
23 support to individuals with intellectual or developmental disabilities
24 and their families.

25 (2) On or after the effective date of P.L. , c. (C.)
26 (pending before the Legislature as this bill), the Office of the
27 Ombudsman for Individuals with Intellectual or Developmental
28 Disabilities and Their Families, established by this subsection, shall
29 be entitled and known as the Office of the Ombudsman for
30 Individuals with Disabilities and Their Families. The revised and
31 expanded purpose of the Office of the Ombudsman for Individuals
32 with Disabilities and Their Families, and of the ombudsman thereof,
33 shall be to serve as a resource for, and provide information and
34 support to, all individuals with disabilities and their families.

35 (3) Whenever, in any law, rule, regulation, judicial or
36 administrative proceeding, or otherwise, reference is made to the
37 Office of the Ombudsman for Individuals with Intellectual or
38 Developmental Disabilities and Their Families or to the
39 ombudsman thereof, the same shall mean and refer, respectively, to
40 the Office of the Ombudsman for Individuals with Disabilities and
41 Their Families and the ombudsman thereof.

42 b. (1) The Governor shall appoint an **【Ombudsman for**
43 **Individuals with Intellectual or Developmental Disabilities and their**
44 **Families】** ombudsman, who shall be qualified by training and
45 experience to perform the duties of the office. The ombudsman

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 shall be a person of recognized judgment, integrity, and objectivity,
2 **【and】** shall be skilled in communication**【,】** and conflict resolution,
3 and **【professionalism】** shall have personal or professional
4 experience with individuals with disabilities and their families.

5 (2) The ombudsman appointed pursuant to this subsection shall
6 select and appoint a deputy ombudsman to support the ombudsman
7 in the execution of the ombudsman's duties. The deputy
8 ombudsman shall be authorized to act in the ombudsman's stead
9 and perform all relevant duties of the ombudsman in any case
10 where: (a) the ombudsman is unavailable, due to illness, disability,
11 leave, or other absence; or (b) the ombudsman, in the ombudsman's
12 sole discretion, determines that there is an appearance of
13 impropriety or partiality or a conflict of interest that prevents the
14 ombudsman from effectively discharging his or her duties in any
15 particular matter.

16 c. The ombudsman shall hire sufficient professional and
17 clerical staff and organize and direct the work of the office,
18 including the work of such professional and clerical staff, as may be
19 necessary to carry out the ombudsman's duties under P.L.2017,
20 c.269 (C.30:1AA-9.1 et seq.), as amended and supplemented by
21 P.L. , c. (C.) (pending before the Legislature as this bill).
22 All employees of the office shall serve at the pleasure of the
23 ombudsman. The ombudsman, or the deputy ombudsman acting in
24 the ombudsman's stead, may delegate, to any employee of the
25 office, any of the authorities, duties, or powers granted under
26 P.L.2017, c.269 (C.30:1AA-9.1 et seq.), as amended and
27 supplemented by P.L. , c. (C.) (pending before the
28 Legislature as this bill), except for the delegation authority granted
29 pursuant to this subsection or the reporting duties contained in
30 section 3 of P.L.2017, c.269 (C.30:1AA-9.3).

31 (cf: P.L.2017, c.269, s.1)

32
33 2. (New section) As used in P.L.2017, c.269 (C.30:1AA-9.1 et
34 seq.):

35 "Appropriate services" means any services, including, but not
36 limited to, assessment, placement, treatment, support, planning,
37 housing, employment, health care, or behavioral health care
38 services, which are made available by a relevant department in the
39 State to assist individuals with disabilities or the family members
40 thereof.

41 "Individual with a disability" means an individual who has a
42 temporary or permanent, partial or total physical or sensory
43 disability, infirmity, malformation, or disfigurement caused by
44 bodily injury, birth defect, or illness such as epilepsy or other
45 seizure disorders. "Individual with a disability" includes, but shall
46 not be limited to, an individual who has any degree of paralysis,
47 amputation, lack of physical coordination, blindness or visual
48 impairment, deafness or hearing impairment, muteness or speech
49 impairment, or physical reliance on a service or guide dog,

1 wheelchair, or other remedial appliance or device, or any mental,
2 psychological, or developmental disability or impairment, including
3 autism spectrum disorder, which either results from anatomical,
4 psychological, physiological, or neurological conditions preventing
5 the typical exercise of any bodily or mental function or is
6 demonstrable, medically or psychologically, by accepted clinical or
7 laboratory diagnostic techniques.

8 “Relevant department” or “department” means the Department of
9 Human Services, the Department of Children and Families, the
10 Department of Labor and Workforce Development, the Department
11 of Education, the Department of Health, or any other executive
12 department or agency that provides appropriate services to
13 individuals with disabilities or their families through any office or
14 division thereof.

15
16 3. Section 2 of P.L.2017, c.269 (C.30:1AA-9.2) is amended to
17 read as follows:

18 2. a. The duties of the Ombudsman for Individuals with
19 **【Intellectual or Developmental】** Disabilities and their Families
20 shall include, but not be limited to, the following:

21 (1) to serve as a source of information for all individuals with
22 **【intellectual or developmental】** disabilities and their families
23 **【and】**, as well as for other interested members of the public and
24 members of the media, to help them better understand State and
25 federal laws and regulations governing individuals with
26 **【intellectual or developmental】** disabilities;

27 (2) to provide, in coordination with the State Council on
28 Developmental Disabilities, the State Centers of Independent
29 Living, the State designated protection and advocacy organization
30 for individuals with disabilities, and members of the State
31 Legislature:

32 (a) information and **【support】** supports to individuals with
33 **【intellectual or developmental】** disabilities and their families, as
34 may be necessary to assist them in identifying, navigating, and
35 understanding the process for obtaining services and supports from,
36 **【the Division of Developmental Disabilities in the Department of**
37 **Human Services and the Division of Children's System of Care in**
38 **the Department of Children and Families】** relevant departments in
39 the State】, including information and support regarding individuals
40 who transition from receiving services and supports from the
41 Division of Children's System of Care to receiving services and
42 supports from the Division of Developmental Disabilities**】**; and

43 (b) direct assistance to individuals with **【intellectual or**
44 **developmental】** disabilities **【in obtaining from the Division of**
45 **Children's System of Care or the Division of Developmental**
46 **Disabilities】**, as may be necessary to ensure that such persons are
47 able to obtain appropriate**【,】** services, supports, and opportunities

1 that focus on their personal goals and that help those goals become
2 a reality;

3 (3) to provide information and communication strategies to
4 individuals with **【intellectual or developmental】** disabilities and
5 their families **【for resolving a disagreement】** in association with the
6 resolution of disputes or disagreements with **【the Division of**
7 **Children's System of Care, the Division of Developmental**
8 **Disabilities, the Division of Disabilities, Division of Deaf and Hard**
9 **of Hearing the Department of Children and Families, or the**
10 **Department of Human Services】** relevant departments regarding the
11 evaluation, placement, or provision of services and supports to **【an**
12 **individual with an intellectual or developmental disability】** such
13 persons; and to educate individuals with **【intellectual or**
14 **developmental】** disabilities and their families on the available
15 options for resolving such disputes and disagreements;

16 (4) to work neutrally and objectively with all parties to help
17 ensure that a fair process is followed in the resolution of disputes
18 and disagreements with relevant departments concerning the
19 provision of services and supports to individuals with **【intellectual**
20 **or developmental】** disabilities **【receiving services from the Division**
21 **of Children's System of Care or the Division of Developmental**
22 **Disabilities, as appropriate】**;

23 (5) to identify any patterns of complaints that emerge regarding
24 the rights **【and】** of, or services **【of】** provided to, individuals with
25 **【intellectual or developmental】** disabilities, and **【to】** **【recommend】**
26 provide suggestions to relevant departments recommending the
27 revision of rules, regulations, policies, procedures, and protocols or
28 the implementation of new and innovative methods or strategies
29 **【for improvement to the Division of Children's System of Care and**
30 **the Division of Developmental Disabilities or the Department of**
31 **Children and Families and the Department of Human Services】** to
32 better protect the rights of individuals with disabilities and ensure
33 their improved access to, and timely receipt of, individualized and
34 appropriate services; and

35 (6) to assist **【the Division of Children's System of Care and the**
36 **Division of Developmental Disabilities】** relevant departments in
37 creating public information programs that are designed to acquaint
38 and educate individuals with **【intellectual or developmental】**
39 disabilities, as well as their **【families,】** family members and other
40 members of the public, about the duties of the ombudsman.

41 b. The ombudsman, deputy ombudsman, and all other staff of
42 the office shall **【treat】** maintain confidentiality with respect to any
43 communications or records that are received **【in the course of】** by
44 the office in effectuating the ombudsman's duties **【, including】**.
45 The ombudsman, deputy ombudsman, and all other office staff shall
46 not disclose personally identifiable information regarding
47 individuals with **【intellectual or developmental】** disabilities **【and】**,

1 their families, **【and others】** or any other persons from whom
2 information is acquired, **【as confidential,】** except when such
3 disclosure is necessary to enable the ombudsman to perform the
4 duties of the office and consent for the disclosure is obtained. Upon
5 receipt of information that by law is confidential or privileged, the
6 ombudsman shall maintain the confidentiality of the information
7 and shall not disclose or disseminate the information except as
8 provided by applicable State or federal law. Whenever confidential
9 records are obtained from a relevant department, pursuant to
10 paragraph (2) of subsection c. of this section, the ombudsman shall
11 maintain the confidentiality of such records to the same extent as is
12 required of the legal custodian of the records.

13 c. In effectuating the duties required by this section, the
14 ombudsman shall be authorized to:

15 (1) consult with other State ombudsman offices;

16 (2) receive complaints from individuals with disabilities and
17 their family members; and

18 (3) solicit and obtain information from relevant departments, as
19 may be necessary to facilitate the discharge of the ombudsman's
20 duties hereunder, and examine, obtain, and copy any records
21 maintained by a relevant department, including records that are
22 deemed confidential under law, without being required to pay any
23 fee therefor. The department receiving a request from the
24 ombudsman for information or records pursuant to this paragraph
25 shall promptly provide the office with the information or records
26 requested.

27 (cf: P.L.2017, c.269, s.2)

28
29 4. Section 3 of P.L.2017, c.269 (C.30:1AA-9.3) is amended to
30 read as follows:

31 3. a. The Ombudsman for Individuals with **【Intellectual or**
32 **Developmental】** Disabilities and their Families shall annually issue
33 a written report **【annually】** to the following persons:

34 (1) the Governor and, pursuant to section 2 of P.L.1991, c.164
35 (C.52:14-19.1), the Senate President, the Speaker of the General
36 Assembly, and the Minority Leaders of the Senate and General
37 Assembly;

38 (2) the Commissioner of Human Services **【and】**, the
39 Commissioner of Children and Families, and the head of any other
40 relevant department; and

41 (3) the public, through publication of the report on the
42 ombudsman's Internet website. **【The】**

43 b. Each report issued under subsection a. of this section shall
44 include a summary of the services the ombudsman provided during
45 the year**【,】** and any specific recommendations the ombudsman
46 deems appropriate and necessary concerning the State's
47 implementation of procedures with respect to **【providing】** the
48 provision of appropriate services and supports to **【individuals】**

1 persons with **【intellectual or developmental】** disabilities **【with**
2 **services and supports】** and their families.

3 **【b. The ombudsman also shall issue the report prepared pursuant**
4 **to subsection a. of this section to the Governor, and pursuant to**
5 **section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature】**

6 c. The date of release of each annual report issued pursuant to
7 this section shall be set by the ombudsman; however, in no case
8 shall the ombudsman allow more than 365 days to elapse between
9 consecutive annual release dates. The release of a report pursuant
10 to this section, at least once per annum, shall be mandatory, and the
11 ombudsman shall not be authorized to delay the issuance of an
12 annual report beyond the mandatory timeframe provided by this
13 subsection. Special or interim reports may be issued, at any time, in
14 the discretion of the ombudsman.

15 (cf: P.L.2017, c.269, s.3).

16
17 5. This act shall take effect immediately.

20 STATEMENT

21
22 This bill would rename and expand the purpose and duties of the
23 Office of the Ombudsman for Individuals with Intellectual or
24 Developmental Disabilities and Their Families and the ombudsman
25 thereof.

26 Specifically, the bill would rename the office as the Office of the
27 Ombudsman for Individuals with Disabilities and Their Families,
28 and it would expand the purpose and duties of the office and the
29 ombudsman to enable the office and ombudsman to provide
30 services to all persons with disabilities and their families (instead of
31 providing services only to those persons who have developmental
32 disabilities and their families, as is provided by existing law).
33 “Person with a disability” is defined to mean any individual who
34 has a temporary or permanent, partial or total physical or sensory
35 disability, infirmity, malformation, or disfigurement caused by
36 bodily injury, birth defect, or illness such as epilepsy or other
37 seizure disorders, including, but not limited to, an individual who
38 has any degree of paralysis, amputation, lack of physical
39 coordination, blindness or visual impairment, deafness or hearing
40 impairment, muteness or speech impairment, or physical reliance on
41 a service or guide dog, wheelchair, or other remedial appliance or
42 device, or who has any mental, psychological, or developmental
43 disability or impairment, including autism spectrum disorder, which
44 either results from anatomical, psychological, physiological, or
45 neurological conditions preventing the typical exercise of any
46 bodily or mental function or is demonstrable, medically or
47 psychologically, by accepted clinical or laboratory diagnostic
48 techniques.

1 Under the bill's provisions, the repurposed Office of the
2 Ombudsman for Individuals with Disabilities and Their Families,
3 and the ombudsman thereof, will be required to provide information
4 and other assistance to all persons with disabilities and their
5 families with respect to the receipt of services from, and the
6 resolution of disputes or disagreements occurring with, any relevant
7 department in the State that provides services to persons with
8 disabilities or their families. The ombudsman will also be required
9 to provide relevant information to members of the public and the
10 media about the laws pertaining to individuals with disabilities and
11 provide suggestions to relevant departments recommending the
12 revision of rules, regulations, policies, procedures, and protocols or
13 the implementation of new and innovative methods or strategies to
14 better protect the rights of individuals with disabilities and ensure
15 their improved access to, and timely receipt of, individualized and
16 appropriate services in the State.

17 The bill would provide for the ombudsman to select and appoint
18 a deputy ombudsman to support the ombudsman in the execution of
19 the office's duties. The deputy ombudsman will be authorized to
20 act in the ombudsman's stead and perform all relevant duties of the
21 ombudsman in any case where: 1) the ombudsman is unavailable,
22 due to illness, disability, leave, or other absence; or 2) the
23 ombudsman, in the ombudsman's sole discretion, determines that
24 there is an appearance of impropriety or partiality or a conflict of
25 interest that prevents the ombudsman from effectively discharging
26 his or her duties in any particular matter.

27 The bill further requires the ombudsman to hire sufficient
28 professional and clerical staff to effectuate the office's expanded
29 purpose and duties. All employees of the office would serve at the
30 pleasure of the ombudsman. The bill expressly authorizes the
31 ombudsman, or the deputy ombudsman acting in the ombudsman's
32 stead, to delegate the ombudsman's authorities, duties, or powers
33 (except the power to delegate and the duty to engage in annual
34 reporting) to any employee of the office.

35 The bill clarifies that the ombudsman, deputy ombudsman, and
36 all other staff of the office will be required to maintain
37 confidentiality with respect to any communications or records
38 received thereby in the course of the office's duties. Moreover, the
39 bill specifies that, whenever confidential records are obtained from
40 a relevant department, the ombudsman will be required to maintain
41 the confidentiality of such records to the same extent as is required
42 of the legal custodian of the records.

43 In effectuating the expanded duties of the office, as provided by
44 the bill, the ombudsman will be authorized to:

- 45 1) consult with other State ombudsman offices;
- 46 2) receive complaints from individuals with disabilities and
47 their family members; and
- 48 3) solicit and obtain information from relevant departments and
49 examine, obtain, and copy any records maintained by a relevant

1 department, including records that are deemed confidential under
2 law, without being required to pay any fee therefor. Any
3 department receiving a request from the ombudsman for
4 information or records will be required to promptly provide the
5 office with the information or records requested.

6 The bill requires each annual report produced by the office to be
7 issued to:

8 1) the Governor, the Senate President, the Speaker of the
9 General Assembly, and the Minority Leaders of the Senate and
10 General Assembly;

11 2) the Commissioner of Human Services, the Commissioner of
12 Children and Families, and the head of any other relevant
13 department that provides services to individuals with disabilities or
14 their families; and

15 3) the public, through publication of the report on the
16 ombudsman's Internet website.

17 The bill authorizes the ombudsman to establish the date of
18 release of each annual report; however, it specifies that, in no case
19 may the ombudsman allow more than 365 days to elapse between
20 consecutive annual release dates. The release of a report, at least
21 once per annum, is mandatory under the bill's provisions, and the
22 ombudsman will not be authorized to delay the issuance of an
23 annual report beyond the mandatory timeframe provided by the bill.
24 The bill further provides, however, that special or interim reports
25 may be issued by the office, at any time, in the ombudsman's
26 discretion.